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EUROPEAN COMMISSION

Brussels, 18.10.2010
COM(2010) 567 final

**REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE
COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE
COMMITTEE OF THE REGIONS**

SAPARD ANNUAL REPORT - YEAR 2009

SEC(2010) 1202

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1. INTRODUCTION

Beginning in 2000, the European Union (EU) reinforced its pre-accession assistance for the rural development of ten Candidate Countries of Central and Eastern Europe by creating Sapard, the Special Accession Programme for Agriculture and Rural Development. For its implementation a unique approach was chosen: the national authorities in the applicant countries assumed the entire responsibility through fully "decentralised management" thus enabling the realisation of Sapard. One objective is to implement numerous small-scale rural development projects and the other is to create structures capable of applying the *acquis communautaire* upon accession. Detailed information regarding the implementation of Sapard can also be found in the previous Annual Reports as published on the Commission website http://ec.europa.eu/agriculture/external/enlarge/publi/index_en.htm.

This report addresses in particular the implementation and financial execution of Sapard in Bulgaria Romania and Croatia, as the Sapard programmes of the eight new Member States (MS), which joined the EU on 1 May 2004, have been completed. During 2004 the latter stopped contracting projects under their respective Sapard programmes and switched to contracting under the post-accession programmes for rural development. Payments to final beneficiaries under their Sapard programmes ended towards the end of 2006 and the final balances of these programmes were settled by the Commission in 2007 and 2008.

Romania and Bulgaria, which joined the EU on 1 January 2007, stopped contracting to final beneficiaries under Sapard on 31 July 2007 and 31 October 2007 respectively.

The programme of Candidate Country Croatia was approved by Commission Decision on 8 February 2006. With the Commission Decision of 29 September 2006 on conferral of management Croatia became eligible for receiving Sapard funds. Contracting to final beneficiaries under this programme took place until August 2009.

Last payments to final beneficiaries of these three programmes were made towards the end of 2009 and the payment applications for the final balance were submitted to the Commission at the end of December 2009.

Sapard Annual Reports have been made for the years 2000 to 2008. As programme implementation has been finalised in 2009 the Sapard Annual Report 2009 is the last one.

2. PROGRAMME IMPLEMENTATION AND MANAGEMENT

2.1 Overall results of financial execution¹

In the Sapard Annual Report 2005 an assessment was made of the achievement of the objectives in the eight new Member States that had completed contracting. A similar analysis has been made for Bulgaria and Romania in the report of 2007, following completion of contracting in 2007 in these Member States. As regards Croatia, where contacting and payments to final beneficiaries finished in 2009, implementation results can be found below.

¹ See Annex A.

As the contracting to final beneficiaries under Sapard has stopped in Bulgaria and Romania in 2007, implementation in 2009 of these programmes mainly focussed on financial execution and control issues. Croatia however was still in a position to contract EU funds to final beneficiaries and stopped contracting in August 2009.

At the end of 2009 **allocations under Sapard** to the beneficiary countries for the years 2000 to 2006 were made for a total of € 890,3 million, of which € 334,1 million was allocated to the eight countries that joined the EU in 2004² and € 556,2 million to Bulgaria, Romania and Croatia. The amount of € 890,3 million is €45,7 million less than the previous year, which is due to the de-commitment made in 2009 for the Bulgarian programme.

During the period 2000 to 2009 a total amount of € 700,5 million³ was actually **paid by the Commission**, representing 99,6%⁴ of the total amount allocated to the eight new Member States and 88,2%⁴ for Bulgaria, Romania and Croatia.

Payments made by the Commission in the year 2009 amounted to €254,1 million, which only concerned Bulgaria, Romania and Croatia.

The rate of financial execution at the end of 2009 of 88,2%, is an improvement compared to the situation at the end of 2008, when financial implementation had slowed down due to control issues in Bulgaria and Romania and low absorption by beneficiaries in Croatia. The execution rates for these countries at the end of 2006, 2007 and 2008 were 46%, 62% and 69,8 respectively.

2.2 Contracted projects and financial execution⁵

2.2.1 Eight new Member States

The number of contracted projects in the eight new Member States amounted to over 34 000 and accounted for € 448 million of **Community contribution contracted**. The rates of financial execution of the programmes reach 100%, except for the Latvian programme which has a rate of 95%⁴.

2.2.2 Romania⁶

At 31 July 2007, the date when Romania stopped making contracts to final beneficiaries, the contracted amount was €1 132 million.

At the end of 2009 the contracted amount had decreased to around €1 023 million of EU funds relating to approximately 4.400 approved and completed projects, compared to €1 066 million of EU funds at 31.12.2008. The decrease of the contracted amount since 2007 of almost 10% is due to cancelled projects.

The three largest measures "*Investments in agricultural holdings*", "*Processing and marketing of agricultural and fishery products*" and "*Investments in rural infrastructure*" accounted for around 88% of the contracted amount of the programme for more than 3.200 approved and completed projects. At the end of 2009 payments, including advances, made since the start to Romania reached €1.030,7 million, or 88,9%⁴ of the amount allocated to the Sapard programme.

² Czech Republic (CZ), Estonia (EE), Hungary (HU), Latvia (LV), Lithuania (LT), Poland (PL), Slovakia (SK), Slovenia (SI).

³ Pre-financing and reimbursement payments.

⁴ See Annex A table 3 for information on financial execution per country.

⁵ See Annex B for numbers of contracted projects and payments to final beneficiaries per country.

⁶ See Annex C for information on implementation for Romania, Bulgaria and Croatia.

2.2.3 Bulgaria⁶

At 31 October 2007, the date when Bulgaria stopped making contracts to final beneficiaries, the contracted amount was €458 million.

At the end of 2009 the contracted amount had decreased to around €346 million of EU funds on more than 2.600 approved and completed projects, compared to €376 million of EU funds to over 2700 projects at 31.12.2008. The decrease of the contracted amount since 2007 of almost 25% is due to cancelled projects.

The three largest measures, "*Investments in agricultural holdings*", "*Processing and marketing of agricultural and fishery products*", including sub measure "*Wholesale markets*" and "*Development and diversification of economic activities*", accounted for 82% of the contracted amount of the programme with over 2.200 approved and completed projects.

The low uptake of funds by the end of 2007 and 2008 resulted in the de-commitment of EU funds of €27,6 million in 2008 and €45,7 million in 2009 respectively, thus reducing the total amount initially allocated to the programme of €444,7 million by 16% to €371,4 million.

At the end of 2009 payments, including advances, made since the start to Bulgaria reached €327,6 million, or 88.2%⁴ of the amount finally allocated to the Sapard programme. Compared to the initial allocated amount of €444,7 million the rate of execution is 73,6%.

2.2.4 Croatia⁶

The Sapard programme of Croatia, adopted in February 2006, with conferral of management in September 2006 obtained an allocation of €25 million on the basis of one single Annual Financing Agreement (AFA) for the year 2006. This amount has been allocated to the measures "*Investments in Agricultural Holdings*" (34%) and "*Processing and Marketing of Agricultural and Fishery products*" (66%).

Contracting of EU funds to final beneficiaries was ongoing until August 2009 and the contracted amount at the end of 2009 was around €12,7 million, representing 51% of the amount allocated to the programme.

At the end of 2009 37 projects were approved and completed. Payments made by the Commission to Croatia since the start reached €14,0 million, including an advance of €7,2 million, representing 55,8%⁴ of the amount allocated to the Sapard programme.

The single tranche programme, adopted at the end of the programming period 2000 to 2006, enabled Croatia to set up the institutions and administrative capacity for the management of EU funds. However, despite the efforts made, it managed to absorb only about half of the allocated funds. The experience gained under Sapard benefited to the preparation and implementation of pre accession assistance for rural development provided under the IPARD programme adopted beginning 2008.

2.2.5 Final payment application

At the end of December 2009 the payment applications of the final balance of the programmes of Bulgaria, Romania and Croatia were submitted to the Commission. Comparison of the **declared EU expenditure** with the initial EU contribution allocated to the programmes resulted in financial execution rates of respectively 72%, 87% and 48%. Due to this under spending €123 million, €152 million and €13 million respectively were left unused for the programmes of Bulgaria, Romania and Croatia. Furthermore, as the amounts already paid by the Commission to these programmes, including advances, exceed the declared expenditure, the negative final balances of these programmes will be subject to

recovery by the Commission. On the basis of declared amounts the final balance amounts to be recovered are provisionally calculated respectively at approximately €5,9 million, €23,3 million and €1,9 million. However the amounts of the final balance are still subject to verification, clearance of the annual accounts and to adoption by means of a Commission Decision.

2.2.6 Leverage factor

The total amount of public funds paid to final beneficiaries finally declared under all Sapard programmes at the end of the year 2009 is €564 million, of which the Community contribution amounts to €669 million. As a large share of the investment undertaken under the Sapard Programme are revenue generating investments, which are supported by up to 50% from public funds, the overall direct impact of Community support under the Sapard instrument, including private financing, therefore amounts to a total of around €6378 million in investments and services. Consequently each euro given by the Community under Sapard results in an investment of **€2,39**.

The individual leverage factors of the programmes of Bulgaria, Romania and Croatia were respectively €2,79, €1,97 and €2,70. As investments in rural infrastructure, which do not involve private contributions, represent 45% of the total expenditure declared for the Romanian programme, the leverage factor of this programme is considerably lower than those of Bulgaria and Croatia.

3. MONITORING AND LEGAL ASPECTS

During 2009 the EU continued to work closely with the beneficiary countries Bulgaria, Romania and Croatia on monitoring and evaluation. In addition to the on going monitoring, four Monitoring Committees were held during 2009, one for Bulgaria, one for Romania and two for Croatia.

In December 2008 the Commission extended the deadline for de-commitment by one year to "n+3" for the AFAs 2006 signed with Bulgaria, Romania and Croatia from the end of 2008 to the end of 2009, to give the countries the opportunity to increase absorption by executing payments until the end of 2009 to projects contracted under Sapard.

A Commission Decision amending the programme of Bulgaria was adopted in 2009⁷. This Decision concerned the modification of the financial table to take account of the de-commitment of €45,7 million from the Annual Financing Agreement (AFA) 2005. The part of the committed amount, which had not been spent by the end of 2008, thus has been de-committed on the basis of the "n+3" de-commitment rule.

As regards Romania and Croatia no Commission Decisions amending the programmes were adopted.

4. ACTIVITIES IN RELATION TO CONFERRAL OF MANAGEMENT, AUDITS AND CONTROLS

4.1 Update on Conferral of Management of Aid and monitoring missions⁸

For Sapard the assurance is obtained from a management and control system of programmes that has been established in line with both the principles under the agricultural funds and the

⁷ See Annex D.

⁸ See Annex E.

relevant external aid provisions of the Financial Regulation. It is based on a decentralised approach with six main characteristics:

- Sapard Agencies established and accredited by each applicant country, responsible for the implementation of the programmes,
- conferral of management issued by the Commission,
- rules for ex-ante controls to be carried out by the Sapard Agencies on 100 % of all projects and related payments before approval of the project and before each payment,
- rules for ex-post controls to be carried out by the Sapard Agencies on all projects within 5 years of the final payment to the project,
- certification of the annual accounts of the Sapard Agencies by independent auditors,
- clearance procedure in two steps: an annual financial clearance of accounts procedure, determining the amount of expenditure effected by the Sapard Agencies during the preceding financial year, which shall be recognised as being chargeable to Sapard fund and secondly, a conformity clearance excluding financing that has been made without respecting the applicable rules.

In 2009 no conferral audit mission was carried out and no Commission Decision was issued in this respect.

According to Regulation (EC) No 2222/2000, the Commission shall also monitor continued compliance with the conditions and provisions of that regulation including its annex. On that basis, one monitoring mission was carried out in Croatia in December 2009. Given the results of those checks, it appears that the accreditation criteria are generally complied with. It has to be noted that considering the scope of this mission, the projects were not analysed in all details, in particular concerning their eligibility, and that they may be subject to further conformity enquiries.

4.2 Action plans and resumption of reimbursements to Bulgaria and Romania in 2009

As described in the 2008 Sapard Annual Report, following the findings of missions carried out in 2008 to Bulgaria and Romania the national Authorities of both countries were requested by letters sent in June and July 2008 respectively to draw up an action plan to remedy the control deficiencies and to inform the Commission of the implementation of such a plan. The countries were also informed about the interruption by the Commission of reimbursements of declared expenditure with regard to three important measures in the case of Bulgaria and for all measures of Romania, until proper implementation of their action plans.

The Commission continued in 2009 to monitor closely the implementation of the action plans. The Commission has analysed the additional information received, showing that the additional work requested by the Commission from the agency and audit authority has been carried out and reported on in the way agreed. Further information was requested and based on that and the conclusion of the independent audit authorities that the action plans were implemented, the reimbursement of declared expenditure resumed for Romania and Bulgaria respectively in July and September 2009. Please see under heading 4.4 below for further information.

4.3 Clearance of Accounts Decisions

Following the requirements set down in Regulation (EC) No 2222/2000, the Commission has to clear the account(s) of the Sapard Agencies, which have been established in the Candidate Countries. On that basis, the Commission adopted a Decision on 30 September 2009, which cleared the 2008 accounts of Croatia.

Pending the review of supplementary information which has been requested from Romania and Bulgaria, the Clearance of Accounts Decision for the financial year 2008 with regard to these countries could not be adopted at that stage. It should also be noted that the Clearance of Accounts Decision concerning the 2007 accounts of Romania is still outstanding for similar reasons.

4.4 Conformity Clearance

In 2009, two conformity missions to audit the expenditure under Sapard were carried out by the Commission, one in Romania in November and one in Bulgaria in December.

During these audit missions the new management, control and sanctioning system for the concerned measures financed under Sapard were reviewed. The missions also followed up the implementation of the action plans in relation to the measures concerned and concluded that the management, control and sanctioning system has improved in comparison to the past and that the action plan has been implemented. However, the mission also revealed certain other weaknesses both with regard to administrative and on-the-spot checks.

4.4.1 Romania

For Romania the conformity audit carried out focused on the measures "*Processing and marketing*", "*Development and improvement of rural infrastructure*", "*Investments in agricultural holdings*" and "*Diversification of economic activities*". The implementation of the action plan, requested to the Romanian authorities was also followed up by means of files verifications and on-the-spot checks under the selected measures and other tests. In particular, checks were carried out to obtain assurance that the control system was implemented in accordance with the accredited procedures and that the controls were carried out to a required standard.

The main findings concerned the on-the-spot-checks as part of the supervision by the Sapard Agency, the evidence and documentation in control reports of measurements made and the management of the database of reference prices.

4.4.2 Bulgaria

For Bulgaria the conformity audit carried out focused on measures "*Investments in agricultural holdings*", "*Processing and marketing of agricultural and fishery products*", "*Diversification of economic activities providing for alternative income*", "*Renovation and development of villages*", "*Protection and conservation of the rural heritage and cultural traditions*" and "*Development and improvement of rural infrastructure*". The implementation of the action plan requested to the Bulgarian authorities was also followed up by means of files verifications and on-the-spot checks under the selected measures and other tests.

The main findings concerned the lack of indications in the checklist for on-the-spot checks with regard to the way measurements were made and lack of documentation in the control reports.

The outcome of the conformity audits, such as the possibility of financial corrections to the expenditure concerned, will be considered at the end of the clearance of accounts procedures.

4.5 Information on irregularities and fraud

The obligation to report detected irregularities is established in Section F of the Multi-annual Financing Agreement signed with beneficiary countries.

In 2009⁹ OLAF received 367 first notifications and 667 updated communications on irregularities detected under Sapard programme in 9 Member states and Candidate Country Croatia.

The number of reports increased by 59% in comparison with 2008. The highest numbers of reports came from Bulgaria, Romania and Poland. The reporting tendencies are changing. Bulgaria demonstrates an increase in reported cases from 56 in 2008 to 250 in 2009, Poland a small increase of 2%, while Romania shows a decrease of 42%, Hungary presents a decline of 36%, and Croatia did not report any new cases.

EU financial contribution under the Sapard programmes reported as being irregular in 2009 has increased by 103% in comparison to 2008 and the amount to be recovered has increased by 139%. The highest amount to be recovered concerns Bulgaria.

Suspected fraud cases were only reported by Bulgaria, Romania, Hungary, and Poland. They account for 77% of 2009 cases in Bulgaria, 14% of cases in Hungary, 5% of cases in Romania, and 2% in Poland.

Most frequent methods of detection in 2009 were 'audit' (21% of all cases), 'control of documents' (15%), 'national administrative or financial control' (15%), and 'interservice collaboration' (11%).

Most frequent types of irregularity in 2009 were 'falsified supporting documents' (29% of cases), 'failure to respect other regulations/contract conditions' (13%), and 'infringement of rules on public procurement' (11%). The biggest change in comparison to 2008 was noticed in the share of cases involving 'falsified supporting documents' i.e. from 18% to 29%. All those cases were reported by Bulgaria.

During 2009, OLAF continued to investigate serious instances of fraud and irregularities under the SAPARD measure "Processing and marketing of agricultural and fishery products", in both Bulgaria and Romania. OLAF's investigations have uncovered clear evidence of systematic fraud in numerous SAPARD funded projects. This evidence has been passed to the respective judicial authorities and Paying Agencies for appropriate action (judicial investigation and financial recovery).

At the end of 2009 OLAF's investigations into numerous SAPARD funded projects in Bulgaria and Romania were continuing and indeed increasing in number.

5. TRANSITION TO RURAL DEVELOPMENT PROGRAMMES AND INSTRUMENT FOR PRE-ACCESSION ASSISTANCE (IPA)

Commission Regulation (EC) No 447/2004 provided rules to facilitate the transition from support under Sapard to the financing after accession by the European Agricultural Guidance and Guarantee Fund (EAGGF) Guarantee Section. After accession and when contracting to final beneficiaries under Sapard stopped, the new Member States joining the EU in 2004 could include payments of projects for which appropriations under Sapard were exhausted or insufficient, in rural development programmes for the period 2004 to 2006. All countries except Estonia and Latvia made use of this possibility.

⁹ See Annex F. Only three reporting quarters of 2009 are covered.

Under the conditions of Commission Regulation (EC) No 248/2007 the outstanding multi-annual commitments made under the Sapard programmes of Bulgaria and Romania in relation to afforestation, producer groups or agri-environmental schemes, could be covered under the rural development programmes for the period 2007 to 2013 and financed by the European Agricultural Fund for Rural Development (EAFRD).

Further pre-accession assistance for the period 2007 to 2013 has been granted to Croatia on 25 February 2008 when the Commission approved the programme for agriculture and rural development of Croatia under Component V of IPA.

6. FUTURE DEVELOPMENTS

Although all Sapard programmes have been implemented, the final balances of eight new Member States have been paid or recovered and the applications of the final balances for Bulgaria, Romania and Croatia have been received by the Commission, there are ongoing events and actions related to Sapard beyond 2009, some of which are worthy of mention:

- the settlement of the final balance for the Bulgarian, Romanian and Croatian Sapard programmes, can only be made in accordance with article 9 of Regulation (EC) No 248/2007 of 8 March 2007, when
 - a certified statement of expenditure is submitted to the Commission,
 - the final report on implementation has been submitted to and approved by the Commission,
 - the Clearance of Accounts Decision has been adopted.
- According to MAFA the eight Sapard beneficiary countries which became Member States in 2004 must continue during five years after the final payment of the project, to check that projects did not undergo a substantial modification and to record debts in the debtors' ledger until all debts are recovered or written off at the end of the second year following their registration. Amounts recovered and written off shall be notified to and are subject to recovery by the Commission. In this respect an annual reporting procedure has been established between the Commission and the eight countries for which the final balance has already been settled.

7. CONCLUSIONS AND ASSESSMENT OF ACHIEVEMENT OF OBJECTIVES

The assessment of the overall impact of the Sapard instrument in the ten beneficiary countries with regard to its objectives has been covered in detail in previous Sapard Annual Reports.

In general it was found that the various measures financed under Sapard contribute to sustainable economic development, improvement of environment and living conditions, the rural infrastructure and the creation of job opportunities in rural areas. Investments made on farms and in the food industry helped the agricultural sector to prepare for accession to the EU and contributed in particular to the attainment of EU standards.

The experience gained during the implementation of the Sapard programme measures and the establishment of the necessary implementation structures were used in the period after accession in the course of preparation of the rural development programmes financed under the European Agricultural and Rural Development Fund and the European Agricultural Guarantee Fund, as well as in preparing the Croatian IPARD programme.

In 2009 ex-post evaluations were carried out with regard to the eight programmes already closed.

In summary these evaluations showed that Sapard pre-accession funds used for the agricultural investment and processing investments measures have been relatively effective, contributing to the competitiveness, and income at the individual level of the beneficiaries, rather than at sector level, where impacts were moderate due to the limitations of the Sapard budget.

The impacts on the rural economies are usually shown to be significant at local micro community level. The relative small budget available prevented Sapard from having a greater impact at regional and national level.

Due to the small share of the budget for the measure "*Diversification of economic activities*", Sapard did not significantly decrease the dependency on agriculture in rural areas.

The evaluations also confirmed the positive impacts of Sapard, on the set up of the institutional structures for the management and control of EU funds, job creation and maintenance of jobs, technological modernisation, and indirectly, the introduction of environmentally friendly technologies.

A horizontal assessment by a synthesis report of the ex post evaluations of the eight already closed programmes is scheduled for completion during the second semester of 2010. Following the closure and ex-post evaluations of the programmes in Bulgaria, Romania and Croatia a similar assessment will be carried out.